

STATE OF MAINE
SUPREME JUDICIAL COURT
AMENDMENTS TO
THE MAINE BAR RULES

2009 Me. Rules 12

Effective: August 1, 2009

All of the Justices concurring therein, the following amendments to the Maine Bar Rules are hereby adopted to be effective on the date indicated above. The specific rules amendments appear below. To aid in understanding of the amendments, an Advisory Note appears after each amendment. The Advisory Note states the reason for recommending each amendment, but the Advisory Note is not part of the amendment adopted by the Court.

1. Rule 1(a) of the Maine Bar Rules is amended to read as follows:

(a) Jurisdiction. ~~These rules~~ The Maine Bar Rules and the Maine Rules of Professional Conduct govern the practice of law by attorneys within this State and the conduct of attorneys with respect to their professional activities and as officers of the Court. Any attorney admitted to, or engaging in, the practice of law in this State shall be subject to the Court's supervision and disciplinary jurisdiction and the provisions of these rules, including Maine Bar Rule 1(b). A lawyer admitted to practice in this State is subject to the Court's disciplinary authority, regardless where the lawyer's conduct occurs. A lawyer may be subject to the disciplinary authority of both this jurisdiction and another jurisdiction where the lawyer is admitted for the same conduct. A justice or judge shall be subject to the provisions of these rules as to conduct relevant to that person's position as an attorney and as to conduct prior to becoming, or after ceasing to be, a Justice or Judge. There shall be coordination between the Board and the Committee on Judicial Responsibility and Disability in any investigations or proceedings concerning a Justice or Judge arising out of the same or related conduct in order to avoid unnecessary or inappropriate duplication of any such investigations or proceedings.

Advisory Note

Rule 1(a) is amended to recognize that, effective August 1, 2009, attorney conduct in Maine is governed by both the Maine Bar Rules and the Maine Rules of Professional Conduct that have been separately promulgated and are effective August 1, 2009.

2. The Maine Bar Rules are amended to add Rule 1(e) and read as follows:

(e) Definitions

The following terms shall have the following meanings when used in the Maine Bar Rules:

- (1) "Board." "Board" shall mean the Board of Overseers of the Bar.
- (2) "Client." "Client" refers to a person, public officer, or corporation, association or other organization or entity, either public or private, who is being rendered professional legal services by a lawyer.
- (3) "Court." "Court" shall mean the Maine Supreme Judicial Court.
- (4) "Former Client." "Former client" refers to a client for whom the lawyer previously rendered and then terminated professional legal services, and for whom the lawyer is not currently rendering any such legal services.
- (5) "Law Firm." Unless the context requires a narrower meaning, "law firm" shall mean any legal entity or group associated by contract, however designated, that in fact provides legal services through lawyers, but shall not include a government agency or lawyers organized as a department within a government agency.
- (6) "Partner." Unless the context requires a narrower meaning, "partner" shall mean a member of a group, however designated, that exercises ultimate authority over the activities of a legal entity or contractual association through which legal services are provided by lawyers.
- (7) "Prospective Client." "Prospective client" refers to a person, public officer, or corporation, association or other organization or entity, either public or private, who consults a lawyer with the view of obtaining professional legal services from the lawyer.
- (8) "These Rules." Unless the context requires a narrower meaning, the term "these rules," when it appears in the Maine Bar Rules, shall be deemed to refer to the Maine Bar Rules and the Maine Rules of Professional Conduct.

Advisory Note

Definitions of terms generally applicable in the Maine Bar Rules are currently provided in Bar Rule 3.15. Bar Rule 3.15, along with the rest of the Code of Professional Responsibility (Bar Rules beginning with the number 3) is abrogated and replaced by the Maine Rules of Professional Conduct, effective August 1, 2009. To continue the definitions in effect, the definitions in Rule 3.15 are transferred to the new Bar Rule 1(e). To bring all of the important definitions in the Bar Rules into one section, the definitions of “Court” and “Board” that presently appear in Bar Rule 2(a) are transferred to the new Rule 1(e). In addition, a new definition of the term “these rules” is added to the definitions section. At many points, the Maine Bar Rules uses the term “these rules” to address the rules governing attorney conduct. Rather than replace the term “these rules” at every place where it appears with an explicit reference to both the Maine Bar Rules and the Maine Rules of Professional Conduct, the definition of “these rules” is adopted to cover both the Maine Bar Rules and the Maine Rules of Professional Conduct.

3. Rule 2(a) of the Maine Bar Rules is amended to read as follows:

(a) General Construction. These rules are intended to provide appropriate standards for attorneys with respect to their practice of the profession of law, including, but not limited to their relationship with their clients, the general public, other members of the legal profession, the courts and other agencies of this State. A proceeding brought against an attorney under these rules shall be an inquiry to determine the fitness of an officer of the court to continue in that capacity. The purpose of such proceeding is not punishment but protection of the public and the courts from attorneys who by their conduct have demonstrated that they are unable, or likely to be unable, to discharge properly their professional duties. Further, these rules are intended to provide for a just determination of complaints alleging misconduct on the part of attorneys, and misunderstandings between attorneys and their clients. They shall be construed to secure simplicity in procedure, fairness in administration and the elimination of unjustifiable expense, delay and inconvenience. ~~Whenever the word "Court" appears herein, it shall mean the Supreme Judicial Court. Whenever the word "Board" appears herein, it shall mean the Board of Overseers of the Bar.~~

Advisory Note

The definitions of “Court” and “Board” are transferred to the General Definitions section of the Bar Rules, now Rule 1(e).

4. Rule 4(b) of the Maine Bar Rules is amended to read as follows:

(b) Term. ~~Initial members of the Board shall serve as follows: three (one lay person and two attorneys) shall be appointed for a term of 3 years; three (one lay person and two attorneys) for a term of 2 years; and three (one lay person and two attorneys) for a term of 1 year.~~ Appointments thereafter to the Board shall be for terms of 3 years. No member shall be appointed to more than 2 consecutive full terms but a member appointed for less than a full term (originally or to fill a vacancy) may serve 2 full terms in addition to such part of a full term, and a former member shall again be eligible for appointment after a lapse of 1 year.

Advisory Note

When the Board of Overseers of the Bar was originally constituted, the rule provided, initially, for appointment of members to staggered terms. Now that the Board is fully constituted, the transitional provisions governing initial appointments are no longer necessary and are removed from the rules to avoid confusion.

5. Rule 5(a) of the Maine Bar Rules is amended to read as follows:

(a) Qualifications. Bar Counsel shall be admitted to the Bar of this State and a full-time employee of the Board. Bar Counsel shall not be otherwise engaged in the practice of law, directly or indirectly, while so employed. ~~As used anywhere in the Bar Rules,~~ Except as stated in Rule 4(d)(1), the term Bar Counsel includes any Deputy Bar Counsel, Assistant Bar Counsel or special counsel approved by the Board. ~~Court under Bar Rule 4(d)(1) for such appointment.~~

Advisory Note

Effective January 1, 2009, the Court amended M. Bar R. 4(d)(1) to limit its approval of the hiring of Board staff to Bar Counsel and the Executive Director. This minor change is recommended in M. Bar R. 5(a) to reflect the Court's intent to limit its involvement with the hiring of Board staff.

6. Rule 6(b) of the Maine Bar Rules is amended to read as follows:

(b) Failure to File Registration Statement, to File State Tax Returns, to Comply With a Support Order, to File an Unemployment Tax Return, to Pay an Unemployment Tax Assessment or to Comply With an Award of the Fee Arbitration Commission.

(1) *Failure to File Registration Statement.* Any attorney who fails to file the registration statement or any supplement thereto in accordance with the requirements of (a) above by August 31 is automatically suspended. Notice of the suspension shall be given by the Board by registered or certified mail, and return receipt requested, addressed to the office or home address last known to the Board. ~~Such~~ The suspension for failure to file the statement or supplement thereto shall not be effective until thirty (30) days after the date of mailing the notice ~~thereof~~ of suspension. The failure to file shall not be considered a per se violation of the Code of Professional Responsibility per se Maine Rules of Professional Conduct, and the suspension for failure to file shall not constitute the imposition of discipline. ~~An attorney who, after the date of the mailing of such notice of suspension but before the effective date of such suspension, files the statement or any supplement thereto as required by subdivision (a) of this rule shall be deemed to be in compliance with this rule and shall not be suspended for failure to file such statement or supplement or certificate; otherwise the attorney shall be subject to Maine Bar Rules 7.3(i)(2) and (j). An attorney aggrieved as a result of a suspension under this paragraph may apply to the Board Chair for summary relief for good cause shown.~~

(2) *Failure to File State Tax Returns.* Whenever, pursuant to section 175 of Title 36 of the Maine Revised Statutes, the State Tax Assessor notifies the Board of the Assessor's finalized determination to prevent renewal or reissuance of a "license or certificate of authority" for an attorney to practice law, the Board shall refuse to process any registration statement filed by ~~such~~ that attorney after such notification from the State Tax Assessor and ~~such attorney is automatically suspended~~ that attorney shall be suspended pursuant to this Rule. The failure to file ~~such~~ a state tax return or to pay any tax liability due as referred to in ~~such~~ the notice ~~notification~~ from the State Tax Assessor shall not be considered a per se violation of the Code of Professional Responsibility per se Maine Rules of Professional Conduct, although the Board may institute separate proceedings to determine whether discipline is appropriate, and the Suspension due to the reported failure to file such return or to pay any overdue tax liability shall not constitute the imposition of discipline. Notice of the receipt of ~~such notification~~ notice from the State Tax Assessor of such finalized determination and of the suspension shall be given by the Board to the attorney by registered or certified mail, and return receipt requested, addressed to the office or home address last known to the Board of Overseers of the Bar. ~~Such~~ The suspension for reported failure to file the state tax return or to pay any overdue tax liability shall ~~not~~ be effective ~~until~~ thirty (30) days after the date of mailing the notice ~~thereof~~ to the attorney. ~~An attorney who, after the date of the mailing of such notice of notification and suspension but before the effective date of such suspension, files with the Board a certificate issued by the State Tax Assessor that the attorney is currently in good standing with respect to any and all returns and tax liability due shall be deemed to be in compliance with~~

~~this rule and shall not be suspended for failure to file such state tax returns or to pay any overdue tax liability; otherwise the attorney shall be subject to Maine Bar Rules 7.3(i)(2) and (j). An attorney aggrieved as a result of a suspension under this paragraph may apply to the Board Chair for summary relief for good cause shown.~~

(3) *Failure to File List of Trust Accounts.* Any attorney practicing alone who fails to file a list of trust accounts in accordance with paragraph (2) of subdivision (a) of this rule, or any attorney who is a member of a law firm that fails to file such a list, is automatically suspended in the manner and on the terms and conditions provided in paragraph (1) of this subdivision for failure to file a registration statement.

(4) *Failure to Comply with a Support Order.* Whenever, pursuant to section 2201 of Title 19-A of the Maine Revised Statutes, the Department of Health and Human Services certifies in writing to the Board that, in compliance with the statutory procedure: A) the Department has determined that an attorney is in noncompliance with a support order; and B) the attorney has failed to appeal the Department's decision; or C) a final judgment has been entered against the attorney on the attorney's petition for judicial review, the Board shall refuse to process any registration statement filed by ~~such an~~ that attorney after ~~such~~ the notification from the Department, and ~~such attorney is automatically suspended~~ that attorney shall be suspended pursuant to this rule. Certification by the Department of an attorney's failure to comply with a support order shall not constitute a per se violation of the Code of Professional Conduct per se Maine Code of Professional Conduct, although the Board may institute separate proceedings to determine whether discipline is appropriate. Suspension after certification of noncompliance by the Department shall not constitute the imposition of discipline. Notice of the receipt of ~~such~~ the certification from the Department and of the suspension shall be given by the Board to the attorney by registered or certified mail, and return receipt requested, addressed to the office or home address last known to the Board of Overseers of the Bar. ~~Such~~ The suspension for reported failure to comply with a support order shall not be effective until thirty (30) days after the date of mailing the notice ~~thereof of suspension~~. ~~An attorney who, after the date of mailing of such notice of certification and suspension but before the effective date of such suspension, files with the Board written confirmation by the Department of compliance with the support order shall not be suspended for failure to comply; otherwise the attorney shall be subject to Maine Bar Rules 7.3(i)(2) & (j). An attorney aggrieved as a result of a suspension under this paragraph may apply to the Board Chair for summary relief for good cause shown.~~

(5) *Failure to File an Unemployment Tax Return or to Pay an Unemployment Tax Assessment.* Whenever, pursuant to section 1232 of Title 26 of the Maine

Revised Statutes, the State Commissioner of Labor or Director of Employment Security certifies in writing to the Board that: (1) the Commission has determined in compliance with the statutory procedure that an attorney is in noncompliance with the unemployment compensation statute, and (2) the attorney has either failed to pursue an appeal from the Commission's decision or a judgment has been entered against the attorney on the attorney's petition for judicial review; the Board shall refuse to process any registration statement filed by such an attorney after such notification from the Commission and ~~such attorney is automatically suspended~~ that attorney shall be suspended pursuant to this Rule. Certification by the Commission of an attorney's failure to comply with the unemployment compensation statute shall not constitute ~~a per se~~ violation of the Code of Professional Conduct per se Maine Rules of Professional Conduct, although the Board may institute separate proceedings to determine whether discipline is appropriate. Suspension after certification of noncompliance by the Commission shall not constitute the imposition of discipline. Notice of the receipt of ~~such~~ the certification from the Commission and of the suspension shall be given by the Board to the attorney by registered or certified mail, and return receipt requested, addressed to the office or home address last known to the Board of Overseers of the Bar. ~~Such~~ The suspension for reported failure to comply with the unemployment compensation statute shall not be effective until thirty (30) days after the date of mailing the notice ~~thereof~~ of suspension. ~~An attorney who, after the date of mailing of such notice of certification and suspension but before the effective date of such suspension, files with the Board written confirmation by the Commission of compliance with the statute shall not be suspended for failure to comply; otherwise the attorney shall be subject to Maine Bar Rules 7.3(i)(2) & (j). An attorney aggrieved as a result of a suspension under this paragraph may apply to the Board Chair for summary relief for good cause shown.~~

(6) *Failure to Comply With an Award of the Fee Arbitration Commission.* When a matter involving an award of a panel of the Fee Arbitration Commission is referred to Bar Counsel under Rule 9(i) because of the attorney's failure to make an awarded refund to the petitioner within 30 days of receipt of the arbitration award, the Board, upon request of Bar Counsel and after affording the attorney an opportunity to respond in writing, may refer the matter to the Court for appropriate disciplinary action.

(7) Relief from Suspension. An attorney who, after the date of the mailing of a notice of suspension pursuant to this subdivision (b), but before the effective date of the suspension, files with the Board (i) a registration statement required by paragraph (1) or (ii) a certificate issued by the State agency pursuant to paragraphs (2), (4), or (5) above stating that the attorney is currently in good standing and has satisfied any obligations and paid any sums due, shall be deemed to be in

compliance with this rule and shall not be suspended for failure to comply with the obligations that led to the notice of suspension; otherwise the attorney shall be subject to Maine Bar Rules 7.3(i)(2) and (j). An attorney aggrieved as a result of a suspension under this paragraph may apply to the Board Chair for summary relief for good cause shown.

Advisory Note

The amendment to Rule 6(b) has three purposes: (1) eliminate some stilted language as recommended by the Board of Overseers of the Bar; (2) substitute reference to the Maine Rules of Professional Conduct which is replacing the Code of Professional Responsibility; and (3) replace four separate relief from suspension provisions within the rule with one relief from suspension provision, new Rule 6(b)(7).

7. Rule 7(a) of the Maine Bar Rules is amended to read as follows:

(a) Term. ~~Initial members of the Grievance Commission shall serve as follows: 3 of its members (one lay person and two attorneys) shall be appointed for a term of 4 years; 3 of its members (one lay person and two attorneys) for a term of 3 years; 3 of its members (one lay person and two attorneys) for a term of 2 years; and 3 of its members (one lay person and two attorneys) for a term of 1 year.~~ Appointments ~~thereafter~~ to the Grievance Commission shall be for terms of 4 years. No member shall be appointed to more than 2 consecutive full terms but a member appointed for less than a full term (originally or to fill a vacancy) may serve two full terms in addition to such part of a full term, and a former member shall again be eligible for appointment after a lapse of ~~one~~ 1 year. The Board shall appoint the Chair and the Vice Chair of the Grievance Commission each year from among the members of the Commission.

Advisory Note

When the Grievance Commission was originally constituted, the rule provided, initially, for appointment of members to staggered terms. Now that the Commission is fully constituted, the transitional provisions governing initial appointments are no longer necessary and are removed from the rules to avoid confusion.

8. Rule 7.1(e)(2)(D) of the Maine Bar Rules is amended to read as follows:

(D) The Chair of the Panel of the Grievance Commission conducting the hearing shall preside and have the power to control the course of proceedings and regulate

the conduct of those individuals appearing as counsel, parties, or witnesses. The failure of an attorney participating in such a hearing as a party, counsel for a party, or as a witness to obey an order of the Chair shall constitute a violation of ~~Maine Bar Rule 3.2(f)~~ Rule 8.4 of the Maine Rules of Professional Conduct, and if committed by a respondent attorney may be duly considered by the panel in its disposition of the matter before it.

Advisory Note

Rule 7.1(e)(2)(D) is amended to reference Rule 8.4 of the Maine Rules of Professional Conduct which, effective August 1, 2009, replaces Bar Rule 3.2(f) as the appropriate rule for address of conduct during a hearing before a panel of the Grievance Commission.

9. Rule 7.3(f)(1) of the Maine Bar Rules is amended to read as follows:

(1) Whenever an attorney is disabled, missing or deceased, and no associated lawyer (see M. Bar R. ~~3.15(a)~~ 1(e)(5)) or lawyer designated in the disabled, missing or deceased attorney's annual registration statement under M. Bar R. 6(a)(1) is available to act to protect the interests of clients and conclude the law practice, the Court may appoint a Proxy who is a licensed Maine attorney in good standing with the duties described in this Rule. A Proxy shall be authorized by Court order to take some or all of the following actions:

[sub ¶s (i) through (ix) of (f)(1) are not changed and are not copied here]

Advisory Note

The amendment to Rule 7.3(f)(1) changes the reference to the Rule from the current 3.15(a) of the Definitions Rules to the new rule governing definitions of "law firm" as the definition appears in Rule 1(e)(5).

10. Rule 7.3(f)(4) of the Maine Bar Rules is amended to read as follows:

(4) Any Proxy so appointed shall not disclose any information contained in any file listed in such inventory without the consent of the client to whom such file relates except as may be necessary to carry out an order of court including any order under this Rule. Any Proxy may be engaged by any former client of the deceased, missing or disabled attorney, provided that the Proxy informs any such client in writing that the client is free to choose to employ any attorney, and that the Court's appointment order under section (2) of this Rule does not mandate or recommend employment by the client of the Proxy. The Proxy is subject to ~~all Bar Rules~~,

~~including Bar Rule 3.4~~ these rules including rules on conflicts of interest. However, the client's retention of the Proxy as successor counsel is not a per se conflict of interest solely by reason of the Proxy's appointment under this Rule.

Advisory Note

The amendment to Rule 7.3(f)(4) by stating that a proxy is subject to "these rules" recognizes that the proxy is subject to the rules of conduct that appear in both the Maine Bar Rules and the Maine Rules of Professional Conduct.

11. Rule 9(a)(1) of the Maine Bar Rules is amended to read as follows:

(1) The Fee Arbitration Commission shall consist of at least 15 regular members plus such alternate members as may be appointed by the Board. Not less than one-third of the regular members shall be lay persons and the balance (as close to two-thirds as may be) shall be attorneys, each to be appointed by the Board for 3-year terms. ~~Initially 1/3 of the regular members of the Commission shall be appointed for a period of 1 year, 1/3 for a period of 2 years, and 1/3 for a period of 3 years. As each regular member's term of office on the Commission expires, a successor~~ No regular member of the Fee Arbitration Commission shall be appointed for ~~no~~ more than 2 consecutive full terms but a regular member appointed for less than a full term (originally or to fill a vacancy) may serve two full terms in addition to such part of a full term. A former regular member shall again be eligible for appointment after a lapse of one year. The term of any member which expires while an arbitration is pending before that member or before a panel that includes that member, shall with reference to that arbitration, be extended until such arbitration is concluded, but such extension shall not interfere with the Board's power to appoint a successor to the Commission. The Board shall appoint the Chair of the Commission each year from among the regular members of the Commission. The alternate members shall be appointed by the Board for 3-year terms to serve pursuant to the directions of the Chair of the Commission as substitutes for any regular member who is unable to serve for any particular arbitration. Except with the consent of the parties pursuant to Rule 9(g)(1) or (2), each panel assembled for a particular arbitration shall include at least one attorney member.

Advisory Note

When the Fee Arbitration Commission was originally constituted, the transitional rule provided for appointment of members to staggered terms. Now that the Commission is fully constituted, the transitional provisions governing

initial appointments are no longer necessary and are removed from the Rules to avoid confusion.

12. Rule 9(e)(4)(C) of the Maine Bar Rules is amended to read as follows:

(C) When a petition is filed by a non-client of the named Respondent attorney, prior to notifying the attorney, the Secretary shall provide the client with notice of the petition and request that within 21 days the client consent in writing to the filing and processing of the petition under Rule 9. Should the client fail to provide consent, the Secretary shall refer the matter to the Chair for determination whether any action under Rule 9 is appropriate for the Commission or if dismissal is required pursuant to ~~Rule 3.3(e)~~ Rule 1.5(g) of the Maine Rules of Professional Conduct.

Advisory Note

The rule referenced in Rule 9(e)(4)(C) is changed from the abrogated Rule 3.3(c) to the new rule 1.5(g) of the Maine Rules of Professional Conduct that will govern this matter when the new rules take effect August 1, 2009.

13. Rule 11(a)(b)(c)(d) of the Maine Bar Rules is amended to read as follows:

(a) Term. ~~Initial~~ Members of the Professional Ethics Commission ~~shall serve as follows: Two of its members shall be appointed for a term of 4 years; two of its members for a term of 3 years; two of its members for a term of 2 years; and two of its members for a term of 1 year. Appointments thereafter shall be for terms of 4 years, or where appropriate, for the balance of an unexpired term.~~ No member shall be appointed to more than 2 consecutive full terms, but a member appointed for less than a full term (originally or to fill a vacancy) may serve 2 full terms in addition to such part of a full term, and a former member shall again be eligible for appointment after a lapse of 1 year. The Board shall appoint the Chair of the Professional Ethics Commission each year from among its members.

(b) Quorum and Action. A quorum shall exist for the purposes of the Commission's exercise of its authority and duties when a majority of its members are present. The concurrence of a majority of such members present shall be sufficient for any action taken.

(c) Authority and Duties. The Professional Ethics Commission shall be subject to such rules and procedures as shall be adopted or approved by the Board. The Professional Ethics Commission:

(1) Shall render advisory opinions to the Court, Board, Bar Counsel, and to the Grievance Commission on matters involving the interpretation and application of the Code of Professional Responsibility (Rule 3) and the Maine Rules of Professional Conduct;

(2) May render advisory opinions on ethical questions posed by attorneys involving the Code of Professional Responsibility (Rule 3) and the Maine Rules of Professional Conduct;

(3) Shall maintain, at a location within this State approved by the Board, a library containing opinions on ethical questions which have been rendered by the Professional Ethics Committee of the American Bar Association and by other ethics committees in other jurisdictions, such library to be available for the benefit of the Court, the Board, Bar Counsel, the Grievance Commission, and interested attorneys admitted to the Bar of this State;

(4) May make recommendations to the Board regarding amendments to the ~~Code of Professional Responsibility (Rule 3)~~ Maine Rules of Professional Conduct; and

(5) Shall maintain indexed and up-to-date compilations of its opinions in such manner as shall permit the same to be available to the Court, the Board, Bar Counsel, the Grievance Commission, and to such others as the Board shall determine.

(d) Opinions as Evidence. Opinions of the Professional Ethics Commission shall be admissible in any proceeding in which the interpretation or application of a provision of the Maine Rules of Professional Conduct or the former Code of Professional Responsibility (Rule 3) is in issue.

Advisory Note

Rule 11 of the Maine Bar Rules, relating to the Professional Ethics Commission is changed in several respects.

First, Rule 11(a) is amended to remove the preliminary transitional provisions relating to appointment of membership in the same manner as the initial preliminary provisions governing staggered terms have been removed from the Rules governing the Board of Overseers of the Bar, the Grievance Commission, and the Fee Arbitration Commission.

Second, in Rule 11(c)(4) relating to recommending amendments to rules reference to the Code of Professional Responsibility is replaced with reference to

the Maine Rules of Professional Conduct. Other provisions of the Rule are amended to add reference to the new rules in addition to the old rules, as this rule recognizes the possibility of use of both current and past rules and opinions in evaluating attorney conduct.

14. Rule 12(c) of the Maine Bar Rules is amended to read as follows:

(c) Sanctions and Appeal.

Any attorney subject to the requirements of this rule who fails to sign and submit the Annual Report Statement demonstrating compliance with, or exemption from, those requirements by August 31 is automatically suspended. Notice of the suspension shall be given by the Board by registered or certified mail, return receipt requested addressed to the office or home address last known to the Board. Such suspension for failure to comply with this rule shall not be effective until thirty (30) days after the date of mailing the notice thereof. The failure to file shall not be considered a violation of the ~~Code of Professional Responsibility~~ Maine Rules of Professional Conduct per se, and the suspension for failure to file shall not constitute the imposition of discipline. An attorney who, after the date of the mailing of such notice of suspension but before the effective date of such suspension, reports compliance with this rule, takes steps satisfactory to the Board to meet the requirements of the rule for the year in question or applies for a waiver on the basis of hardship, disability or for other good cause shall not be suspended for failure to comply with this rule; otherwise the attorney shall be subject to Maine Bar Rules 7.3(i)(2) and (j). An attorney aggrieved as a result of a suspension under this paragraph may apply to the Board Chair for summary relief for good cause shown.

Advisory Note

Rule 12(c) is amended to replace the reference to the Code of Professional Responsibility with a reference to the newly adopted Maine Rules of Professional Conduct.

15. These amendments are effective August 1, 2009.

Dated: May 11, 2009

/s/
LEIGH I. SAUFLEY
Chief Justice

/s/

ROBERT W. CLIFFORD
Associate Justice

/s/

DONALD G. ALEXANDER
Associate Justice

/s/

JON D. LEVY
Associate Justice

/s/

WARREN M. SILVER
Associate Justice

/s/

ANDREW M. MEAD
Associate Justice

/s/

ELLEN A. GORMAN
Associate Justice